



U.S. Department  
of Transportation  
**Research and  
Special Programs  
Administration**

400 Seventh St., S.W.  
Washington, D.C. 20590

MAR - 7 2001

Mr. Richard J. Lloyd  
Manager, Regulatory Compliance  
Air Products and Chemicals, Inc.  
7201 Hamilton Boulevard  
Allentown, PA 18195-1501

Ref. No: 00-0317

Dear Mr. Lloyd:

This is in response to your November 10, 2000, letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) as they pertain to transportation under the International Maritime Dangerous Good (IMDG) Code for international cargo vessel transportation. Your questions have been paraphrased and answered as follows:

Q1. If the IMDG Code is used to ship containerized, non-bulk packages by vessel from a facility in the United States to a foreign destination, are the dunnage requirements in § 176.76(a) applicable? Specifically is wood dunnage required?

A1. As provided by § 171.12, a hazardous material that is packaged, marked, classed, labeled, placarded, described, stowed and segregated, and certified in accordance with the IMDG Code may be offered and accepted for transportation and transported within the United States subject to certain conditions and limitations. Since none of these conditions and limitations include specific compliance with § 176.76(a), a containerized shipment that is transported by vessel may be prepared in accordance with the IMDG Code instead of the specific provisions of § 176.76(a).

The provisions of the IMDG Code relating to freight container packing are performance based and do not provide prescriptive guidance with regard to the specific methods for securing packages. As provided by 7.5.2.2 of the IMDG Code, "Packaged dangerous goods and any other goods within the same cargo transport unit should be tightly packed and adequately braced and secured for the voyage. The packages should be packed in such a way that there will be a minimum likelihood of damage to fittings during transport. Such fittings on packages should be adequately protected." Freight containers packed to meet these requirements do not specifically require wood dunnage. However, cargo shipped in conformance with the dunnage requirements and other requirements in § 176.76(a) of the HMR would also meet the IMDG Code requirements for cargo securement.



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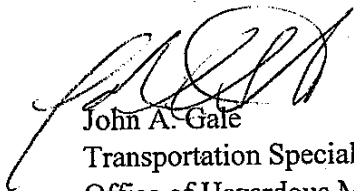
176.76

Q2. Is DOT E-9689 necessary for transportation under the IMDG Code?

A2. DOT E-9689 authorizes certain dense or heavy hazardous materials to be secured against movement in a freight container or transport vehicle by the use of a fabric restraint dunnage system when shipped by cargo vessel. As stated above, a containerized hazardous materials shipment that is prepared and transported in accordance with the IMDG Code need not comply with the specific provisions of § 176.76(a). Therefore, compliance with the specific terms of this exemption is not required for vessel transportation, either domestic or international, when conducted in accordance with the provisions of the IMDG Code. However cargo shipped in accordance with the fabric restraint dunnage system authorized by DOT E-9689 would also meet the IMDG Code requirements for cargo securement.

I hope this information is helpful.

Sincerely,

A handwritten signature in dark ink, appearing to read 'John A. Gale', is written over a horizontal line.

John A. Gale  
Transportation Specialist  
Office of Hazardous Materials Standards

Air Products and Chemicals, Inc.  
7201 Hamilton Boulevard  
Allentown, PA 18195-1501  
Telephone (610) 481-4911

10 November 2000

Mr. Edward Mazzullo  
Director of the Office of Hazardous Materials Standards  
U. S. Department of Transportation  
Research and Special Programs Administration (DHM-10)  
400 Seventh Street, S.W.  
Washington DC 20590-0001

Dear Mr. Mazzullo:

As a result of our conversations with the Hazardous Materials Regulations Information Center and with the U.S. Coast Guard, we are seeking additional clarification on several questions involving the application of 49 CFR 171.12 (b) and 176.76 (a) to international cargo vessel transportation.

Question 1: 49 CFR 171.12 (b) and 176.76 (a)

- If the IMDG Code is used to ship non-bulk hazardous materials from a facility in the U.S. to a foreign destination using cargo vessel transportation for the ocean movement, are the dunnage requirements in 176.76 (a) applicable? Specifically, is wood dunnage required? Section 171.12 (b) allows shippers the option to use the IMDG Code in association with the requirements of that section for transportation within the United States and for the cargo vessel. Since 176.76 (a) is not referenced in 171.12 (b), it is our opinion there is not a requirement for wood dunnage when using the IMDG Code. Paragraph 12.3.1 in the IMDG Code requires non-bulk packages to be tightly packed within a freight container and adequately braced and secured. There is no mention of the type of dunnage, i.e., wood, that must be used. The use of a commercially available fabric restraint dunnage system such as Ty-Gard would seem sufficient if 176.76 (a) is not applicable when hazardous materials are offered for shipment in accordance with the IMDG Code.

Question 2: DOT Exemption E9689 (copy attached)

- Does Air Products need DOT-E9689 for the transportation of hazardous materials in drums when shipped by cargo vessel? This exemption authorizes the transportation of certain dense or heavy hazardous materials not exceeding 12.09 pounds per gallon to be secured against movement in a freight container or transport vehicle by the use of a fabric restraint dunnage system when shipped by cargo vessel. It exempts shippers from 49 CFR 176.76 (a) (4). The exemption does not seem necessary for shipments made under the IMDG Code as allowed by Section 171.12 (b) since this section does not reference 176.76 (a) as being applicable when using the IMDG Code. Perhaps the exemption is needed for U.S. domestic cargo vessel transportation instead of international cargo vessel transportation.

In our discussions with the U.S. Coast Guard, they mentioned we should keep the exemption. If we were charged with a blocking and bracing securement violation, the regulation cited would be 49 CFR 171.12 (b) and 176.76 (a). They indicated our exemption would absolve the citation if there was an issue for not having wood dunnage. However, if our understanding of the regulations is correct, a citation should not occur. This may be a training issue with an inspector.

We appreciate your assistance in providing guidance to us for these questions.

Sincerely,



Richard J. Lloyd  
Manager, Regulatory Compliance

Attachment